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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**

6 UNITED STATES OF AMERICA, )

7 Plaintiff, )

8 vs. )

9 XOCHITL GARCIA-SANTANA, )

10 Defendant. )  
11 \_\_\_\_\_ )

3:12-cr-00023-RCJ-VPC-1

**ORDER**

12 Defendant Xochitl Garcia-Santana was indicted for a single count of Illegal Reentry After  
13 Deportation, 8 U.S.C. § 1326(d). Defendant moved to dismiss the Indictment based upon a due  
14 process violation in the underlying deportation proceedings. The Court denied that motion but  
15 later dismissed the Indictment for selective prosecution, conditioned upon Defendant's consent to  
16 voluntary departure, which has not occurred because Defendant is apparently ineligible. The  
17 Government has appealed and has asked the Court to reconsider the conditional dismissal order.  
18 For the reasons given at the hearing, the Court will not reconsider.

19 **CONCLUSION**

20 IT IS HEREBY ORDERED that the Motion to Reconsider (ECF No. 30) is DENIED, and  
21 the Indictment is DISMISSED.

22 IT IS SO ORDERED.

23 Dated this 25th day of March, 2013.

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25 ROBERT C. JONES  
United States District Judge